

## UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA )

v. )

MARTIN NICHOLSON )

Case No. 5:18-MJ-S92(ATB)

Defendant. )

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of 2012 to 2015 and October 8, 2018 in the county of Onondaga in the Northern District of New York the defendant violated:

*Code Section*  
18 U.S.C. §2251(a) and (e) and 18  
U.S.C. § 2252A(a)(2)(A)

*Offense Description*  
Sexual Exploitation of a Child and attempt to do so and Receipt of  
Child Pornography

This criminal complaint is based on these facts:  
See attached affidavit

☒ Continued on the attached sheet.


  
Complainant's signature

Heather Weber, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/10/18

  
Judge's signature

City and State: Syracuse, NY

Hon. Andrew T. Baxter, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Heather L. Weber, being duly sworn, depose and state:

**I. INTRODUCTION**

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been so employed by the FBI since September 2014. I am currently assigned to the Albany Division, Albany, New York. I have participated in investigations of persons suspected of violating federal child pornography laws, including Title 18, United States Code, Sections 2251, 2252 and 2252A. I have received training in the area of child sexual exploitation and have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media.

2. This affidavit is made in support of an Application for a criminal complaint and arrest warrant charging Martin Nicholson with violating Title 18, United States Code, Sections 2251(a), Sexual Exploitation of a Child, and 2252A Receipt of Child Pornography.

3. The statements in this affidavit are based on information provided by New York State Police Investigators and on my own investigation of this matter.

4. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that Nicholson has committed the crimes of Sexual Exploitation of a Child, or attempt to commit that offense, in violation of Title 18, United States Code, Section 2251(a) and (e) and Receipt of Child Pornography, in violation of Title 18, United States Code, Section 2252A(a)(2)(A).

## II. THE INVESTIGATION

5. On April 2, 2018, the National Center for Missing and Exploited Children (NCMEC) processed a report from Twitter<sup>1</sup> in which Twitter reported that a user had transmitted an image through its service which appeared to be child pornographic in nature. This image, titled “k0slKAuq.jpg,” depicts the lewd and lascivious display of the vagina of a prepubescent child, who is also depicted inserting two fingers into of her anus. This image is available to the court upon its request.

6. Twitter provided the following information pertaining to the user who transmitted the image:

Profile url <https://twitter.com/loverofall5672>  
Email Address: mtnicholson[XXXX]@gmail.com  
Screen/User Name: loverofall[XXXX]  
IP Address: 71.115.217.232 (Registration) 02-05-2018 03:48:26 UTC  
IP Address: 71.115.216.34 (Login) 03-13-2018 05:20:38 UTC  
IP Address: 71.115.216.34 (Login) 03-13-2018 00:18:30 UTC

7. Information received in response to a subpoena issued to Google for gmail account [mtnicholson\[XXXX\]@gmail.com](mailto:mtnicholson[XXXX]@gmail.com) revealed that Martin Nicholson is the name listed on the account, and the recovery email associated with the account is [\[XX\]nicholson@twcnny.rr.com](mailto:[XX]nicholson@twcnny.rr.com).

8. The IP address which was used to log into the suspect Twitter account prior to and after the image of child pornography was uploaded to Twitter (71.115.217.232) is owned by Verizon. As a result of a subpoena issued to Verizon, Verizon advised that the IP address was assigned to the following Verizon customer on the date and time of the Twitter activity:

Verizon Customer Id: 255453507  
Verizon Account Id: 0001

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<sup>1</sup> Twitter is an American online news and social networking service on which users post and interact with messages known as “tweets”.

Customer Name: Martin Nicholson  
Account Address: [Street address redacted]  
Syracuse, NY [zip code redacted]  
Daytime Telephone [Redacted]  
Email Address: [XX]nicholson@twcny.rr.com

9. New York State Police Senior Investigator Todd Grant obtained a search warrant for Nicholson's Syracuse, NY residence address, and on October 9, 2018, Federal Agents and Investigators with the New York State Police executed that warrant and found Martin Nicholson as the sole occupant of the residence.

10. Nicholson agreed to speak with Investigator Grant and your affiant at the North Syracuse State Police Barracks and waived his Miranda Rights. During this interview, Nicholson was shown the image identified in the NCMEC report. Nicholson did not recognize the specific image but stated it was consistent with images he has traded using Twitter, Kik<sup>2</sup> and Wickr<sup>3</sup>. Nicholson stated he had traded child pornography using Kik as recently as the night before.

11. Department of Defense Special Agent Diego Collacchi retrieved Kik messages and images from Nicholson's cell phone that was seized pursuant to the search warrant. A review of the Kik activity between Nicholson and another Kik user on October 8, 2018 show that multiple images and videos were traded between the two, some of which depict child pornography. In particular, the Kik activity shows Nicholson receiving a video entitled "6cb53dc9-f49a-446c-bfb6-6685aea8b14c.mp4." This video is approximately 1 minute 50 seconds in length and depicts two

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<sup>2</sup> Kik is a freeware instant messaging mobile application from the Canadian company Kik Interactive

<sup>3</sup> Wickr is an American software company based in San Francisco. The company is best known for its instant messenger application of the same name. The Wickr instant messaging apps allow users to exchange end-to-end encrypted and content-expiring messages, including photos, videos, and file attachments and place end-to-end encrypted video conference calls.

females under the age of 12, one of whom is anally penetrating the other with a sex toy.

12. Martin Nicholson admitted that he was previously a track and cross country coach at several local schools.

13. Among other things, Nicholson admitted that he coerced a minor female child (V1) to take pictures of her younger sister (V2), and specifically asked that V1 take and send to him images depicting V2's vagina.

14. During the execution of the search warrant a flash drive was recovered and previewed. A folder bearing V2's name was located, and in it were several images of V2. Nicholson was shown these images, and admitted that these were the images he directed V1 to produce, surreptitiously, of V2. The images depict V2 in various states of undress, and includes at least two lewd and lascivious images depicting V2's vagina as the focal point of the image. These images are available for the Court's inspection upon request.


15. V1 was identified, located and interviewed. She admitted taking naked and explicit pictures of V2 in a surreptitious manner at Nicholson's instruction and direction, and said she did so between 2012 and 2015.

16. V2 was located and interviewed by New York State Police Investigators. V2 identified herself in the recovered images. She said she did not know these pictures had been taken. In viewing the images, V2, now 16 years old, said that based on some of the items depicted, she believes she was 12 or 13 at the time.

### **III. CONCLUSION**


17. Based upon the above, your affiant respectfully submits that there is probable cause to believe that Martin Nicholson (1) in or about 2012 – 2015 employed, used, persuaded, induced, enticed, and coerced a minor or minors to engage in sexually explicit conduct for the purpose of

producing any visual depiction of such conduct, or attempted to do so, knowing and having reason to know that such visual depiction would be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting such commerce, and where such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, in violation of 18 U.S.C. § 2251(a) and (e), and (2) on or about October 8, 2018 received child pornography using a means and facility of interstate and foreign commerce, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, in violation of 18 U.S.C. § 2252A(a)(2)(A).

  
Heather Weber  
Special Agent  
Federal Bureau of Investigation

Sworn to me

This 10<sup>th</sup> day of October 2017

  
Hon. Andrew T. Baxter  
United States Magistrate Judge